Application No. 10/049,867
Amendment and Response dated June 24, 2004
Reply to Office Action mailed February 24, 2004

REMARKS

Introduction

The Office Action mailed February 24, 2004, rejected pending claims 12-21. In view of the amendments made herein and the following remarks, reconsideration and allowance of the claims is respectfully requested. By this response, claims 12-21 have been amended and claims 12-21 are pending.

For the convenience of the Examiner, the following remarks address the objections of the Examiner in the order they were raised by the Examiner.

Minor Informalities

The Examiner objected to the disclosure and indicated that the phrase "model" should be "modem" in claim 15. Claim 15 has been amended as suggested by the Examiner.

Drawings

The Office Action objected to the drawings because in Figure 1, all blocks are not labeled. This response includes proposed changes to the drawings as described in the Amendments to the Drawings and illustrated in the annotated sheet of drawings.

Claim Rejections – 35 U.S.C. § 102

The Office Action rejected claims 12-21 under 35 U.S.C. 102(e) as being unpatentable over U.S. Patent No. 6,594,692 (Reisman). To anticipate a claim, the reference must teach every element of the claim. In fact, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

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See Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987). The following discussion illustrates that Reisman does not anticipate claims 12-21.

Claim 12 as amended requires a control device having an assigned memory device storing a plurality of session scripts. In claim 12, a session computer connected with the control device has mutually independent connection interfaces. The session computer also has a plurality of script-processing devices being able to simultaneously establish mutually independent connections via the connection interfaces to a device to be tested. Each script-processing device executes at least one session script.

By executing scripts through the mutually independent connection interfaces, the system of claim 12 can simulate a load of a plurality of users on the device to be tested. In other words, the connection interfaces are mutually independent and the plurality of script-processing devices establish mutually independent connections through the mutually independent connection interfaces. The execution of the session scripts simulates a load state of a plurality of users on the device to be tested. Messages generated by the execution of the session scripts are logged to evaluate the load state of the device to be tested. Thus, the system is able to generate multiple mutually independent connections to simulate a load of a plurality of users on a device to be tested.

In contrast, Reisman solves the problem of "enabling simple, economical and prompt mass distribution of electronic information products" by "providing a computer-implemented information transport software module . . . ." *See* col. 4 ll. 65 – col. 5 ll. 3. Reisman enables electronic publishers to enable their customers to easily update information products such as periodical collections. *See* col. 6, lls 18-22. The ability to update an information product on a

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customer's periodical collection is quite different from simulating a load state on a device to be tested.

To accomplish the ability to update information products, Reisman provides an information transport component that includes a fetcher module to fetch a pre-identified object from an object source, a communications manager to establish and manage connection to said object source under control of the fetcher module, and a fetched object integrator to locate a fetched object in a preset file area. *See* col. 6, lls. 23-39.

While the transport component may establish a connection with an object source to update an information product, Reisman simply fetches the object from the object source. In other words, the transport component taught by Reisman simply enables an information product to be updated from a source object, Reisman does not teach that the transport component establishes a plurality of mutually independent connections to simulate a load of a plurality of users on a device to be tested. Nor does Reisman evaluate the load state experienced by the device to be tested.

The Office Action suggests that col. 12, ll. 57 through col. 13 ll. 24 of Reisman teaches a plurality of mutually independent connection interfaces. This portion of Reisman discusses application programming interfaces (APIs). With regard to APIs, Reisman states that an API is any "program interconnection technique which supports direct, seamless interaction between one program and another . . . ." *See* col. 13, lls. 5-10. Claim 12 requires that the connection interfaces be mutually independent. Thus, Reisman does not teach mutually independent connections via the connection interfaces as required by claim 12. It follows that Reisman cannot teach executing session scripts through mutually independent connections because

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Reisman teaches APIs that support direct and seamless interaction, which contradicts mutually independent connection interfaces.

The transport module taught by Reisman does not simulate a load of a plurality of users on a device to be tested, but instead seeks to access a source object to update an information product. Reisman further does not teach logging messages that are used to evaluate a load state of the device to be tested.

For at least these reasons, claim 12 overcomes the cited art and is believed to be in condition for allowance. Claims 13-20 depend from the claim 12 are overcome the cited art for at least this reason. Claim 21 also overcomes the cited are for at least the reasons discussed above.

Conclusion

Applicant notes that this response does not discuss every reason why the claims of the present application are distinguished over the cited prior art. Most notably, applicant submits that many if not all of the dependent claims are independently distinguishable over the cited prior art. Applicant has merely submitted those arguments which it considers sufficient to clearly distinguish the claims over the cited prior art.

In view of the foregoing, applicant respectfully requests the Examiner's reconsideration and allowance of claims 12-21 as amended and presented herein.

In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

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Dated this 24th day of June 2004.

Respectfully submitted,

CARL T. REED
Registration No. 45,454
Attorney for Applicant
Customer No. 022913
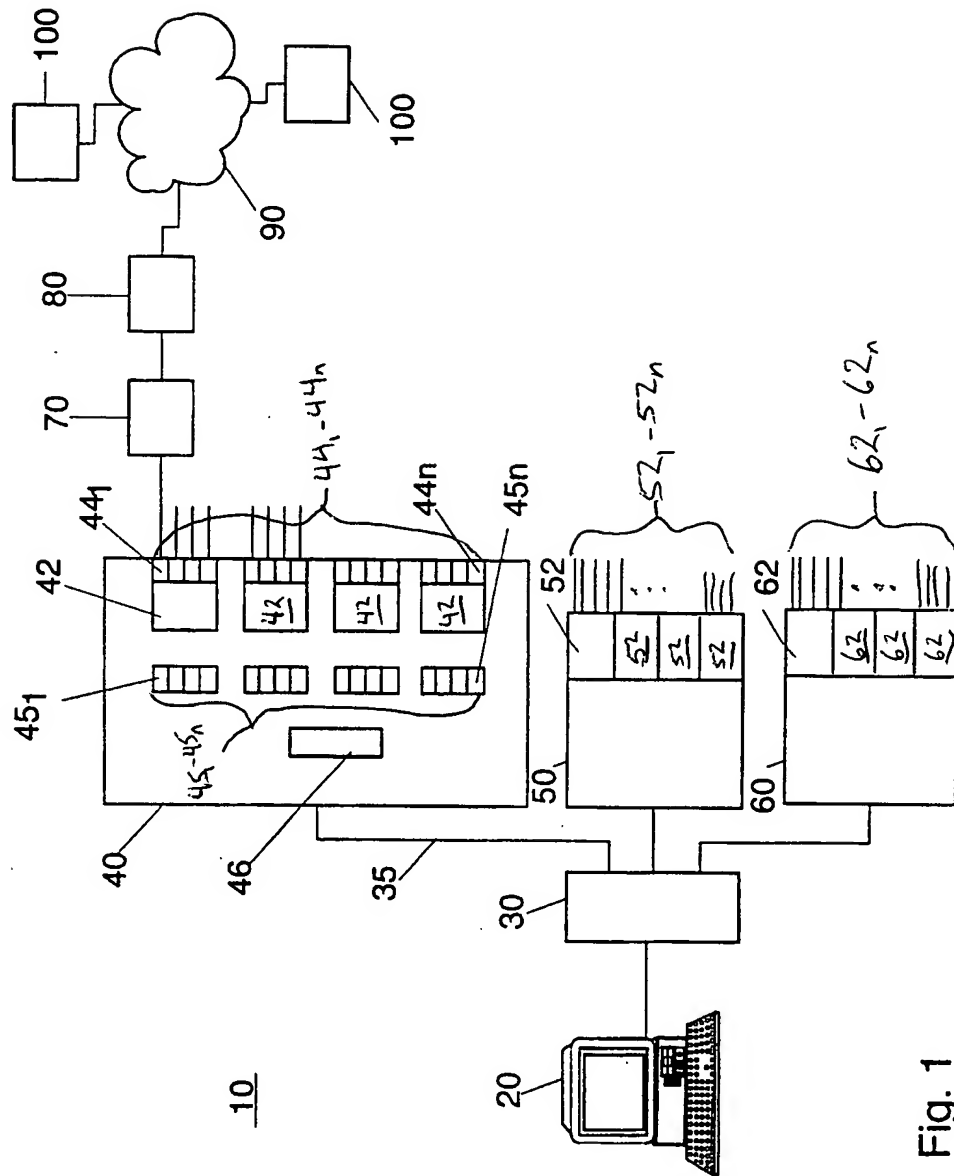Telephone No. 801.533.9800

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Fig. 1